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8 UNITED STATES DISTRICT COURT  
9 WESTERN DISTRICT OF WASHINGTON  
10 AT TACOMA

11 BILL L. HEMENWAY,

12 Petitioner,

13 v.

14 ALICE PAYNE,

15 Respondent.

Case No. C07-5634RBLFDB

ORDER GRANTING  
PETITIONER'S MOTION TO  
FILE AMENDED PETITION

16 This matter is before the court on petitioner's motion for leave (Doc. 25) to file an Amended  
17 Petition, which was submitted along with the motion (Doc. 26). After reviewing petitioner's motion and  
18 the remaining record, the court orders as follows.

19 (1) Petitioner's motion (Doc. 25) is GRANTED. The matter was stayed for several months  
20 pending the outcome of state court proceedings, and it was appropriate to file an Amended Petition  
21 following the conclusion of those proceedings. Accordingly, the stay in this matter shall be lifted.

22 (2) The court notes Respondent has also filed an Answer, subsequent to the filing of Petitioner's  
23 motion and Amended Petition. It appears the Answer was filed in direct response to the Amended  
24 Petition, however, if this assumption is erroneous Respondent shall contact the clerk of the court and  
25 advise otherwise.

26 (3) A response (or traverse) to respondent's Answer is not required. As the Advisory Committee  
27 Notes to Rule 5 of the Rules Governing § 2254 Cases states:

28 [T]he traverse tends to be a mere pro forma refutation of the return [Answer], serving little

1 if any expository function. In the interests of a more streamlined and manageable habeas  
2 corpus procedure, it is not required except in those instances where it will serve a truly  
3 useful purpose.

4 If petitioner intends to file a traverse in this matter, he shall do so **no later than December 15,**  
5 **2008.**

6 (4)**The clerk should set the matter for consideration on the court's December 19, 2008**  
7 **calendar,** and the Clerk shall direct copies of this Order to petitioner and to counsel for respondent.

8 DATED this 28th day of November, 2008.

9 /s/ J. Kelley Arnold  
10 J. Kelley Arnold  
11 United States Magistrate Judge  
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